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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/755,205	01/04/2001	Xiangzhong Yang	UCON-150	4832

7590

01/30/2002

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EXAMINER

AFREMOVA, VERA

ART UNIT	PAPER NUMBER
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1651

DATE MAILED: 01/30/2002

6

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.
09/755,205

Applicant(s)
Yang et al

Examiner
Vera Afremova

Art Unit
1651



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on Dec 6, 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above, claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☒ Claims 1-27 are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- *See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____ 20) ☐ Other: _____

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DETAILED ACTION

Claims 1-27 are pending and subject to restriction requirement.

Election/Restriction

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-4, drawn to a method for vitrification of biological material, classified in class 435, subclass 374, for example.
- II. Claims 5-9, drawn to a method for cryopreservation of biological material, classified in class 435, subclass 374, for example.
- III. Claims 10-18, drawn to a method vitrification of oocytes, classified in class 435, subclass 2, for example.
- IV. Claims 19-26, drawn to a method for cryopreserving oocytes, classified in class 435, subclass 2, for example.
- V. Claim 27, drawn to a method for parthenogenetic development of vitrified oocytes, classified in class 435, subclass 373, for example.

The inventions are distinct, each from the other because of the following reasons:

The methods listed above are distinct one from another because they recite different and distinct active steps and structural elements as claimed. The claimed method of the group I invention is drawn to the use of particular concentrations of cryoprotectants in cryoprotective medium and in vitrification solution which are not required for the claimed methods of the groups II and IV, for example. The claimed method of the group II invention requires particular

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temperatures in combination with material of specific thermal conductivity as claimed what is not required for the claimed methods of the groups I and III, for example. The methods of all groups require different subjects under treatments, such as cell cultures, oocytes or cumulus cells, and, therefore they result in preservation or in possession of distinct products. The group V method requires the use of particular culture systems and the presence of cumulus cells as claimed what is not required for any other methods as claimed. Thus, the several inventions listed above are independent and distinct from one another as they have acquired a separate status in the art and require independent searches, particularly with regard to the literature searches. Clearly, a reference which would anticipate one of the above groups would not necessarily anticipate or even make obvious any of the others. Because these inventions are distinct for the reasons given above restriction for examination purposes as indicated is proper.

Applicant is advised that the response to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a diligently-filed petition under 37 CFR1.48(b) and by the fee required under 37CFR 1.17(h).

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Vera Afremova whose telephone number is (703) 308-9351. The examiner can normally be reached on Monday to Friday from 9:00 to 5:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Wityshyn, can be reached on (703) 308-4743. The fax phone number for this Group is (703) 308-4242.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0196.

Vera Afremova

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January 30, 2002.

SANDRA E. SAUCIE
PRIMARY EXAMINER

